

RILEY, Judge

STATEMENT OF THE CASE

Appellant Genese Elliot (“Mother”), appeals the termination of her parent-child relationship with A.D., contending that there is insufficient evidence to support the termination.

We affirm.

ISSUE

The sole issue for our review is whether there is sufficient evidence to support the termination of the parental relationship.

FACTS AND PROCEDURAL HISTORY

The facts most favorable to the judgment reveal that A.D. was born prematurely on October 10, 2002. He weighed one pound and eleven ounces and presented twenty-eight difference diagnoses, including chronic lung disease, congenital heart condition, urinary tract infection, and seizure disorder. A.D. remained in the hospital for the first five months of his life. When he was discharged to his nineteen-year-old Mother, he was taking Phenobarbital for the seizure disorder. He also suffered from significant neurological and developmental delays.

Mother began missing A.D.’s doctor’s appointments just one month after he was discharged from the hospital. In October 2003, blood tests showed that A.D.’s Phenobarbital levels were dangerously low. One month later, Mother took A.D. to Missouri for two months and missed another doctor’s appointment. The

pediatrician notified the St. Joseph County Office of Family and Children (OFC) and expressed his concern that Mother's failure to maintain her son's Phenobarbital levels was placing the child at risk for potentially life-threatening seizures.

In April 2004, A.D. was adjudicated a Child in Need of Services. In the CHINS dispositional order, the court ordered Mother to, among other things, visit with A.D. on a regular basis, cooperate with home-based services, maintain stable employment, maintain stable housing, and maintain consistent contact with the OFC. A.D. was placed in therapeutic foster care. When Mother failed to comply with the dispositional order, OFC filed a petition to terminate Mother's parental rights.

At the time of the hearing, A.D. was eighteen months old, and suffered from developmental, cognitive, emotional, and social delays as well as the seizure disorder. Mother did not know A.D.'s medical needs or that he was suffering from developmental delays. She admitted that she had not cooperated with the CASA Brian Gates (CASA) even though she knew that he was going to make a recommendation to the trial court. She did not know the name of A.D.'s OFC caseworker and had not been to a case conference in over a year. Mother was unemployed and received \$700.00 per month in social security benefits because she is learning disabled. She had missed one-third of her scheduled visits with her son. When she did visit A.D., she did not interact with him. Rather, she was often observed coloring or playing computer games. Also at the time of the hearing,

Mother had two more children, a one-year old and a two-month old.

The CASA recommended terminating Mother's parental rights. According to the CASA, Mother's interest in her son is minimal at best and there has been no bonding between them. The CASA also shared his concerns that Mother does not recognize her son's emotional, mental, physical, or educational needs.

Following the hearing, the trial court issued an order terminating Mother's parental rights on August 17, 2006. Mother appeals.

DISCUSSION AND DECISION

I. Standard of Review

The purpose of terminating parental rights is not to punish parents but to protect their children. In re Termination of the Parent-Child Relationship of D.D., 804 N.E.2d 258, 264 (Ind. Ct. App. 2004), trans. denied. Although parental rights are of a constitutional dimension, the law allows for the termination of those rights when parties are unable or unwilling to meet their responsibility as parents. Id.

This court will not set aside the trial court's judgment terminating a parent-child relationship unless the judgment is clearly erroneous. In re R.S., 774 N.E.2d 927, 929-30 (Ind. Ct. App. 2002), trans. denied. When reviewing the sufficiency of the evidence to support a judgment of involuntary termination of a parent-child relationship, this court neither reweighs the evidence nor judges the credibility of the witnesses. Id. at 930. We consider only the evidence that supports the judgment and the reasonable inferences to be drawn therefrom. Id.

I. Analysis

Indiana Code Section 31-35-2-4(b) sets out the following relevant elements that an OFC must allege and prove by clear and convincing evidence in order to terminate a parent-child relationship:

- (i) the child has been removed from the parent for at least six months under a dispositional decree:

* * * * *

- (A) there is a reasonable probability that:

- (i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
 - (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

- (B) termination is in the best interests of the child; and

- (C) there is a satisfactory plan for the care and treatment of the child.

The trial court must subordinate the interests of the parents to those of the child when evaluating the circumstances surrounding the termination. R.S., 774 N.E.2d at 930. Termination of the parent-child relationship is proper where the child's emotional and physical development is threatened. Id. The trial court need not wait until the child is irreversibly harmed before terminating the parent-child relationship. Id.

Here, Mother contends that there is insufficient evidence to support the termination of her parental rights. Specifically, she contends that the OFC failed to prove that there is a reasonable probability that the conditions that resulted in

her son's removal will not be remedied. According to Mother, the conditions have already been remedied.

To determine whether the conditions are likely to be remedied, the trial court must judge a parent's fitness to care for the child at the termination hearing and take into consideration any evidence of changed conditions. D.D., 804 N.E.2d at 266. The court must also evaluate the parent's habitual patterns of conduct to determine the probability of future neglect or deprivation of the child. Id.

Our review of the evidence reveals that A.D. suffers from multiple developmental delays as well as a seizure disorder. Mother does not recognize her son's special needs. She has not cooperated with the CASA, attended a case conference in over a year, or regularly visited with A.D. Further, even if she recognized A.D.'s needs, she lacks the resources to address them. Specifically, Mother is twenty-three years old with two other young children in the home, a one-year-old and a two-month-old. She is unemployed and suffers from a learning disability for which she receives social security benefits, and shows minimal interest in her son when it is just the two of them during visitation.

Recognizing our deferential standard of review, we find that this evidence supports the trial court's finding that there is a reasonable probability that the conditions that resulted in A.D.'s removal will not be remedied.

CONCLUSION

We reverse a termination of parental rights "only upon a showing of 'clear error' – that which leaves us with a definite and firm conviction that a mistake has

been made.” Egly v. Blackford County DPW, 592 N.E.2d 1232, 1235 (Ind. 1992).

We find no such error here. Based on the foregoing, we find sufficient evidence to support the termination of the parent-child relationship.

Affirmed.

KIRSCH, J., and FRIEDLANDER, J., concur.